

1 MICHAEL BAILEY
United States Attorney
2 District of Arizona
ANGELA WOOLRIDGE
3 Assistant U.S. Attorney
Arizona State Bar No. 022079
4 405 W. Congress St., Suite 4800
Tucson, AZ 85701-5040
5 Telephone: (520) 620-7300
Email: Angela.Woolridge@usdoj.gov
6 Attorneys for Plaintiff

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF ARIZONA**

9
10 United States of America,

11 Plaintiff,

12 vs.

13 Donna Baker,
a.k.a. Donna Jaskolski,

14 Defendant.
15

CR19-0984-002-TUC-JAS (LCK)

GOVERNMENT'S SENTENCING
MEMORANDUM

16 Plaintiff, United States of America, by and through its attorneys undersigned,
17 hereby files its Sentencing Memorandum for defendant Donna Baker in the above-
18 referenced case. Sentencing is scheduled for March 24, 2020.

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **I. FACTS AND PROCEDURAL HISTORY**

21 On October 5, 2017, the co-defendant, Mark Vincent Baker, purchased a digital
22 recording device through the internet. On several occasions between October 8 and 13,
23 2017, Mark Baker and the defendant, Donna Baker a.k.a. Donna Jaskolski, used, accessed,
24 and tested the digital recording device. On October 12, 2017, Mark and Donna Baker
25 discussed the digital recording device and the need for a second digital recording device,
26 which Mark Baker then purchased from a retailer..
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1 On October 16, 2017, Mark Baker entered the Multi-Function Lab in the Joint
2 Interoperability Test Command compound on Fort Huachuca, disarmed the alarm for the
3 building, surreptitiously placed the second digital recording device in or near the
4 Government Action Officer's office, and turned on the device to record. This area is a
5 Sensitive Compartmented Information Facility. Later the same date, Mark Baker again
6 entered the building, disarmed the alarm, immediately retrieved the device, armed the
7 alarm, and exited the building. During this time period, Mark and Donna Baker
8 communicated by telephone. Mark Baker's entry into the facility for the purpose of
9 creating a surreptitious recording was prohibited by law. Donna Baker knew that Mark
10 Baker would enter the facility for a prohibited purpose, entered into an agreement with him
11 that he would do so, and intended that he do so.

12 On October 18, 2017, Mark and Donna Baker accessed the digital audio file
13 captured on the device on October 16, 2017, and copied its contents into smaller files.
14 They subsequently copied portions of the audio file onto compact discs, and sent several
15 compact discs containing the audio files to other individuals who were either participants,
16 referred, or otherwise involved in the oral communications recorded in the files.

17 On December 20, 2017, Donna Baker was interviewed by federal law enforcement
18 agents with regard to her participation in the incident describe above. She stated that she
19 was not involved with the digital audio recording created on October 16, 2017, did not
20 know what device Mark Baker used to create the recording, and was upset upon learning
21 about the recording after it was created.

22 On April 10, 2019, the defendant was indicted on one count of conspiracy to
23 intercept communications, one count of interception of communications, and one count of
24 false statements in connection with a federal investigation. On February 6, 2020, she
25 pleaded guilty to an Information charging conspiracy to enter military property for a
26 prohibited purpose, a misdemeanor, with a written plea agreement. Pursuant to the
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1 agreement, the government will dismiss the charges in the Indictment against the defendant
2 at sentencing. Sentencing is scheduled for March 24, 2020.

3 **II. APPLICABLE STATUTES AND GUIDELINES**

4 The government agrees with the information in the Final Presentence Report. The
5 sentencing guidelines do not apply to the offense of conviction, a Class B misdemeanor.
6 U.S.S.G. § 1B1.9. The maximum term of imprisonment is six months, and the maximum
7 term of probation is five years. 18 U.S.C. §§ 1382, 3561(c)(2).

8 **III. GOVERNMENT'S SENTENCING RECOMMENDATION**

9 The government requests that this Court sentence the defendant to five years
10 probation, the sentenced stipulated to by the parties in the plea agreement in this matter.
11 The government believes this sentence appropriately reflects the nature of the offense and
12 the individual characteristics of the defendant. The defendant's role in the surreptitious
13 recording offenses appears to be minor, although her false and/or misleading statements to
14 law enforcement about the recording offenses are concerning. However, the offenses in
15 this case appear to be an isolated incident motivated by the defendant's negative feelings
16 about the termination of her employment. This suggests she may present a low risk to
17 reoffend. Also in mitigation, the defendant has no criminal history, and suffers from
18 multiple physical and mental health problems.

19 **IV. CONCLUSION**

20 For the reasons discussed, the government respectfully requests that this Court
21 accept the plea agreement entered into by the parties and sentence the defendant in
22 accordance with it, to five years probation. The government submits that this sentence is
23 appropriate based on the facts and circumstances of the offenses and the individual
24 characteristics of the defendant.
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1 Respectfully submitted this 17th day of March, 2020.

2 MICHAEL BAILEY
3 United States Attorney
4 District of Arizona

5 s/ Angela Woolridge
6 ANGELA WOOLRIDGE
7 Assistant U.S. Attorney

8 Copy of the foregoing served
9 electronically or by other means
10 this 17th day of March, 2020, to:

11 Sabra Barnett, Esq.
12 Attorney for the Defendant Donna Baker
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